

**OPINION
54-40**

January 25, 1954(OPINION)

ESTATES

RE: Probate - No Heirs - State's Attorneys' Duties

In your letter of January twenty-second you ask for our interpretation of section 30-2501, particularly with reference to the duties of the state's attorney prescribed by this section.

It is our opinion that the state's attorney has performed his full official duty when he has petitioned "for administration as soon as the facts come to his knowledge."

The County Court then takes over and appoints an administrator, who may be the public administrator or any other proper person.

There may be a possible conflict between the last sentence of this section and section 11-2105 which gives the public administrator power to take possession of estates where there are no known relatives or heirs.

However, from the time of appointment, the administrator takes full charge of the estate and may employ the state's attorney or any other attorney to act as his attorney. If he appoints the state's attorney, the state's attorney acts no longer in an official capacity and is entitled to full compensation the same as any other attorney would be in the like case.

ELMO T. CHRISTIANSON
Attorney General